
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Richard E. LaPierre

Lady Meghan Ryan, WCX4267

Seabrook, New Hampshire 03874

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File No. EB-00-BS-212

NAL/Acct. No. 200032260001

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: May 12, 2000

By the Enforcement Bureau, Boston Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Richard E. LaPierre ("LaPierre"), licensee and operator of the Vessel Lady Meghan Ryan, Call Sign WCX4267, apparently violated Section 503(b)(1)(B) of the Communications Act of 1934 as amended¹ ("Act"), and Section 1.89(b), of the Commission's Rules² (the "Rules"), for failure to provide written response to Federal Communications Commission official correspondence dated September 28, 1999, October 25, 1999, December 3, 1999 and February 28, 2000. We conclude that LaPierre is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

II. BACKGROUND

2. The Vessel Lady Meghan Ryan was inspected on September 14, 1999 by Agent James S. Cesanek from the Commission's Boston Field Office. The Vessel Lady Meghan Ryan, Call Sign WCX4267, was docked at Eastman's Marina in Seabrook, NH and operated by Richard E. LaPierre, 6 Zacarella Circle, Seabrook, NH 03874. Prior to boarding the vessel for inspection, the Agent observed the name Lady Meghan Ryan displayed on the exterior side of the vessel. Once onboard, the Agent found the Ship Station License identifying the vessel name as Captree Star with Call Sign WCX4267, Documentation #292977.

¹ 47 U.S.C. § 503(b)(1)(B).

² 47 C.F.R. § 1.89(b).

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Furthermore, LaPierre could not locate ship station logs or produce his Marine Radio Operator Permit. LaPierre informed the Agent that the previous vessel captain might have stolen the ship station logs. LaPierre further stated that his Marine Radio Operator Permit application was mailed to the Commission in Gettysburg about three or four weeks prior to this inspection.

3. On September 16, 1999 Agent Cesanek researched Federal Communications Commission databases for radio station license, owner/operator and vessel information. The Commission Marine License Application database found Call Sign WCX4267 belonging to the Vessel Captree Star, Documentation #292977, and licensed to LaPierre. On September 28, 1999 an Official Notice of Violation and an Advisory were sent by first class postage prepaid mail to LaPierre, informing him that operation of the Vessel Lady Meghan Ryan is in violation of the Commission's Rules. LaPierre failed to respond to this notice.

4. On October 25, 1999 a Continuation of Official Notice of Violation was sent by first class postage prepaid mail to LaPierre again informing him that operation of the Vessel Lady Meghan Ryan is in violation of the Commission's Rules. LaPierre failed to respond to this notice.

5. On December 3, 1999 a Warning Notice (FCC Form 794) was sent certified mail to LaPierre, informing him that the Vessel Lady Meghan Ryan is in violation of Section 1.89 of the Rules³ for his failure to respond to Commission correspondence of September 16, 1999 and October 25, 1999. LaPierre accepted the certified letter from the U.S. Postal Service. The Certified Mail green card with a signature of Richard E. LaPierre was hand-delivered by the Postal Service to the FCC Boston Field Office on December 8, 1999. LaPierre failed to respond to this notice.

6. On January 12, 2000 Agent Cesanek called Captain Robert Fish in Fort Lauderdale, Florida, who leases the Vessel Lady Meghan Ryan to LaPierre. Captain Fish stated that he was consulting LaPierre in recent days about the citation notices, vessel operating requirements, and future ownership of the Vessel Lady Meghan Ryan. Captain Fish stated that the previous vessel captain employed by LaPierre might have confiscated the ship station logs. Also on January 12, 2000 Agent Cesanek received a telephone call from LaPierre to discuss Commission violations and compliance. The Agent recommended LaPierre review Section 80 of the Rules⁴ and seek assistance from his service company and Captain Robert Fish. The Agent advised LaPierre to respond in writing to the Notice of Violation to avoid forfeiture. LaPierre has failed to respond.

7. On February 25, 2000 Agent Cesanek called the Consumer Information Center at the Federal Communications Commission Consumer Information Bureau to check on the status of LaPierre's application for a Marine Radio Operator Permit and written notice for vessel name change. According to the unnamed Commission employee, there is no record of application and vessel name change from LaPierre to date. On February 28, 2000 a final Continuation of Official Notice of Violation was sent certified mail to LaPierre, again informing him that operation of the Vessel Lady Meghan Ryan is in violation of the Commission's

³ 47 C.F.R. § 1.89.

⁴ 47 C.F.R. § 80.

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Rules. LaPierre failed to accept the certified letter from the U.S. Postal Service. The certified citation letter was returned by the Postal Service to the FCC Boston Field Office on March 22, 2000 as unclaimed.

III. DISCUSSION

8. LaPierre has violated Section 80.29 of the Rules⁵, requiring the licensee submit written notification to the Commission when a change in name of a vessel occurs during the license term. He has also violated Section 80.159(d) of the Rules⁶, requiring a Marine Radio Operator Permit be held by a radio operator transporting more than six passengers for hire on board a ship equipped with a radiotelephone station in accordance with Part III of Title III of the Communications Act. And he has also violated Section 80.409(b) of the Rules⁷, requiring that ship station logs be maintained and made available to authorized Commission employees upon request.

9. More significantly, LaPierre has violated Section 1.89 of the Rules, by failing to provide written response to Section 80.29, 80.159(d) and 80.409(b) violations in reply to Federal Communications Commission official correspondence dated September 28, 1999, October 25, 1999, December 3, 1999 and February 28, 2000.

10. Based on the evidence before us, we find that LaPierre willfully⁸ violated Section 1.89(b) of the Rules⁹. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999), ("Policy Statement"), sets the base amount for failing to provide written response to Federal Communications Commission official correspondence at four thousand dollars (\$4,000). In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act¹⁰, that include the nature, circumstances, extent and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the Policy Statement and statutory factors to the instant case, we believe that a monetary forfeiture of four thousand dollars (\$4,000) is warranted for the violation.

IV. ORDERING CLAUSES

⁵ 47 C.F.R. § 80.29.

⁶ 47 C.F.R. § 80.159(d).

⁷ 47 C.F.R. § 80.409(b).

⁸ Section 312(f)(1), which also applies to Section 503(b), provides: [t]he term "willful", when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provisions of the Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States. See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁹ 47 C.F.R. § 1.89(b).

¹⁰ 47 U.S.C. § 503(b)(2)(D).

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11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended¹¹, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules¹², Richard E. LaPierre is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of four thousand dollars (\$4,000) for violation of Section 1.89(b) of the Rules.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules¹³, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Richard E. LaPierre SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by credit card through the Commission's Credit and Debt Management Center at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. X32260001.

14. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S. W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. X32260001.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹⁴

17. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Richard E. LaPierre, 6 Zacarella Circle, Seabrook, New Hampshire 03874. A copy shall be sent, by first class postage prepaid mail, to Richard E. LaPierre, 6 Zacarella Circle, Seabrook, New Hampshire 03874.

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¹¹ 47 U.S.C. § 503(b).

¹² 47 C.F.R. §§ 0.111, 0.311, 1.80.

¹³ 47 C.F.R. § 1.80.

¹⁴ See 47 C.F.R. § 1.1914.

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Vincent F. Kajunski
District Director, Boston Office
Enforcement Bureau